

Steven Ramsey v. Jay Cashman, Inc.
Deposition of ARTHUR C. SARGENT - March 16, 2006

<p>VOLUME: 1-102 PAGES: 1-102 EXHIBITS: See Index</p> <p>UNITED STATES DISTRICT COURT Civil Action No. 04-CV-10699 (RCL)</p> <p>STEVEN RAMSEY x v. Plaintiff, x JAY CASHMAN, INC. x Defendant. x</p> <p>DEPOSITION of ARTHUR C. SARGENT, taken pursuant to the Massachusetts Rules of Civil Procedure before Elizabeth A. Hayes, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, held at the law offices of Holbrook & Murphy, 15 Broad Street, Boston, Massachusetts on Thursday, March 16, 2006, commencing at 9:15 a.m.</p> <p>REPORTERS, INC. GENERAL & TECHNICAL COURT REPORTING 23 MERRYMOUNT ROAD, QUINCY, MA 02169 617.786.7783/FACSIMILE 617.786.7723</p>	<p>APPEARANCES OF COUNSEL: <u>For the Plaintiff:</u> BARISH ROSENTHAL Three Parkway, Suite 1320 1601 Cherry Street Philadelphia, Pennsylvania 19102 BY: SAMUEL J. ROSENTHAL, ESQUIRE</p> <p><u>For the Defendant:</u> HOLBROOK & MURPHY 15 Broad Street, Suite 900 Boston, Massachusetts 02109 BY: ROBERT J. MURPHY, JR., ESQUIRE</p>																				
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1 Q.	So that would be implicated when you're	1 voltage regulator -- if the voltage drops	
2 starting the motor?		2 for any reason or other, you don't get	
3 A.	Yes.	3 the voltage to the sparkplug, and it'll	
4 Q.	And how about the voltage regulator, what	4 stall on you.	
5 does that do?		5 Q.	Do you know whether that happened in this
6 A.	Similar to what you have onboard an	6 case?	
7 automobile, to when you're charging your		7 A.	I have no idea.
8 battery, it keeps the charge to the		8 Q.	One way or another?
9 battery at a constant voltage. Rather		9 A.	Have no idea. I did not see the motor in
10 than just going up to extreme high		10 the condition it was after it left	
11 levels, it keeps it at a reasonable level		11 Hochstrasser before the casualty	
12 to charge your battery.		12 occurred, before it was dumped the second	
13 Q.	The switch boxes, what does that do?	13 time, or the third time, to make some	
14 A.	That's just an on and off switch	14 determination. But, without that, you	
15 someplace on the motor.		15 can't do it.	
16 Q.	And the starter solenoid, what does that	16 I would assume that these people	
17 do?		17 -- I say, "these people" -- the	
18 A.	When you push something, it will then	18 Hochstrasser mechanic, tested out these	
19 activate the starter motor.		19 parts and said, "This is no good, we	
20 Q.	Okay. Now, what evidence, or what	20 should change it," or, "This is no good,	
21 support do you have for the idea that any		21 we should change it."	
22 of those issues caused the vessel to		22 Q.	You haven't spoken to anyone from there?
23 stall, caused the motor to stall?		23 A.	No, I have not spoken --
24 A.	They're all electrical parts. The	24 Q.	Has anyone informed you of their
	35		36
1	position?	1	when you dunk something, to submerge it
2 A.	Nope.	2 in salt water, to replace it immediately	
3 Q.	So, that's just a --	3 thereafter, if you want to go back in	
4 A.	Right.	4 operation with it. That's the general	
5 Q.	-- guess on your part?	5 practice, and not to try to see, "Well,	
6 A.	No, not a guess. Remember, the vessel	6 can we get by this, or not?"	
7 got under water, and I guess the rain --		7 The cost of replacing this was	
8 and it sotted out.		8 nominal, as I remember. In this	
9 Q.	Uh-huh.	9 particular case, they decided not to do	
10 A.	And it was taken over to Hoffstrasser --	10 it. And it's quite clear what they	
11 or Hochstrasser -- to make certain it's		11 indicated, "stator, voltage regulator,	
12 put in the proper operating condition.		12 switch boxes, starter solenoid were not	
13 And someone decided to do it, as far as I		13 changed." -- and we had that underlined,	
14 can see, on the cheap. And when I say,		14 were not changed -- "Advise doing so	
15 "on the cheap," not do a couple of items		15 since it sank in salt water."	
16 here, and changing out the electrical end		16 So here's a marina that does	
17 of it.		17 repairs on engines saying, "Look, this	
18 When you have something dunked in		18 thing sank in salt water; you'd better do	
19 salt water, normally you change out		19 something about it." And someone decided	
20 everything to do with the electrical.		20 not to do it.	
21 Q.	And why is that?	21 Q.	Do you know how long it would take to
22 A.	The electrical can short out. It's	22 effect those repairs, typically?	
23 damaged, rusted, corroded. It's just		23 A.	I would think they'd be able to get those
24 general good practice, marine practice,		24 repairs done in a week. I mean, it's a	

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1 Mercury outboard. It's a common outboard
2 motor. Someone must be a distributor of
3 an outboard. And I guess if you pushed
4 these fellows to do it, you could get it
5 done in a couple of days. But, certainly
6 no more than a week.

7 Q. And do you have an idea of what the cost
8 would be for those kind of repairs?

9 A. I think someone basically did the same
10 repairs, or was telling about the same
11 repairs. Here it is, "A harness, relay,
12 solenoid." It looks like about \$120
13 worth. And it would be about the same
14 thing here, \$120 worth. So, really it
15 should only have been \$120 more than
16 \$350.

17 So, it would add up to less than
18 \$500 for the entire change-out of
19 everything on this engine to make it as
20 -- I wouldn't say it's as good as new --
21 but, as good as it was before, and
22 suitable to operate.

23 Q. Let me ask you this. Let's just assume
24 hypothetically, you'd been called in the

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1 day this happened. You'd go look at the
2 boat, I take it, and look at the motor?

3 A. Uh-huh.

4 Q. And what would you be looking for? What
5 would you do?

6 A. Oh, I'd just -- when you say, "I'm
7 looking at it," as what, sort of an
8 owner, or --

9 Q. Let's say I called you up and said, "Hey,
10 I represent Cashman," or Mr. Rosenthal
11 called you up and said, "I represent
12 Steve Ramsey, and we've had a problem
13 with this boat, and we want you to go
14 look at it and tell us what you think,"
15 what would the drill be?

16 A. I'd check out all of these pieces and
17 find out whether they were bad, at that
18 point. But, I wouldn't know whether they
19 were bad because of a condition that
20 preexisted, or this time in the salt
21 water. So, probably I couldn't do very
22 much with it. It's been damaged a second
23 time, and we cannot separate out the
24 damage before from the damage after, very

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1 easily.

2 Q. I see. And all these pieces wear out on
3 their own at some point regardless of
4 whether they're emerged in salt water?

5 A. Perhaps; perhaps.

6 Q. Nothing lasts forever.

7 A. Right, most things don't. I can't think
8 of very much.

9 Q. And let me ask you, if something had
10 shorted out, would there be telltale
11 signs that this was an electrical
12 problem?

13 A. If something kept shorting out, you could
14 always send it back to Hochstrasser and
15 say, "Figure out what's happening."

16 Q. No, I mean after the fact. Is there a
17 way you could have looked at that motor,
18 and there'd be telltale signs that there
19 was an electrical problem?

20 A. Yeah. You'd find corrosion someplace.
21 You could pull each part, that is, each
22 piece apart, and test it individually. I
23 don't know where this would get you,
24 though, because we had a second dunking,

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1 a second emersion; whether you could
2 figure out that it had to do with the
3 first emersion or the second emersion. I
4 don't know whether you could find that
5 out.

6 Let's assume the first time you
7 did everything perfectly. You did
8 exactly what Hochstrasser told us to do.
9 You changed everything. And then we had
10 a second dunking, the same pieces
11 probably would be required to be changed
12 out. You'd go through the same drill the
13 second time, because we had a second
14 sinking. So, you change out everything
15 the second time.

16 Q. Okay. Let me ask you this -- I know
17 you've read Mr. Ramsey's testimony. The
18 boat stalled out on him as he returned to
19 the barge; did you understand that?

20 A. Yes.

21 Q. And then you understand that he worked on
22 the boat a little bit?

23 A. Yes. Worked on the boat a little, --

24 Q. Worked on the motor.

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1 A. Tried to get it started, yes.
2 Q. Yeah, what do you understand that he did?
3 A. I don't know. He was there working on
4 it. What he actually did, I don't know.
5 Q. Okay, but at some point he got it started
6 up again?
7 A. He got it started up again.
8 Q. Does that lead you to believe one way or
9 the other that it's more likely or less
10 likely that the problem was electrical?
11 A. I don't know what to make of it, because
12 I don't know what he did.
13 Q. Well, if something shorts out, would you
14 be able to start it up again?
15 A. Jiggle a wire, perhaps. I don't know
16 what he did.
17 Q. How likely would that be?
18 A. I don't know what he did, whether that
19 was the problem or not.
20 Q. What I'm trying to --
21 A. I don't know what the problem is. I
22 can't answer your question.
23 Q. Okay, let me just ask it in a general
24 sense, then. If an outboard motor stalls

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1 out because of an electrical problem, how
2 likely is it that the motor would then --
3 you'd be able to get it going again?
4 MR. ROSENTHAL: Objection to
5 form.
6 A. If you change out the electrical problem,
7 it'll fix the --
8 Q. No, no, I don't mean that. I mean, I'm
9 driving my outboard motor back to the
10 barge and it stalls out. I drift back to
11 the barge, and then 5 or 10 minutes later
12 I get the motor going again. How likely
13 is that if it was an electrical problem?
14 MR. ROSENTHAL: Objection to
15 form.
16 A. I don't know. I can't answer the
17 question.
18 Q. What's the problem with the question?
19 I'm looking for your answer on this.
20 A. Yeah, I don't really -- he can jiggle
21 something, and all of a sudden it makes
22 good contact again.
23 Q. Would that be for a loose wire?
24 A. Possibly. I'm thinking the easiest

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1 explanation -- you have a flashlight that
2 doesn't really work -- I've got it, a
3 television clicker, changing channels.
4 It has a couple of batteries in it. And
5 all of a sudden you can't change the
6 channel; it doesn't work. You open it up
7 and you rub the batteries, the end of the
8 batteries; put them back in. And low and
9 behold, like magic, it works again. What
10 have you done? You've changed some
11 resistant values, or jiggling a wire,
12 maybe is a better way of saying it.
13 But, basically you put back the
14 batteries and you can change the
15 channels. I assume everyone has done
16 this at some time or other.
17 Q. Sure.
18 A. And that's the same thing I'm talking
19 about here. He gets in and pushes around
20 something. And low and behold --
21 Q. But, would you be able to do that with a
22 -- okay, and I understand --
23 A. I don't know. I really don't know what
24 could have been done. And that's why I

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1 say I can't answer the question. All I
2 can say is, by analogy, indeed, there are
3 conditions I can think of where you just
4 jiggle something, or make better contact,
5 and low and behold it works like magic.
6 And whether it's the same thing
7 here, if there was, in fact, a loose wire
8 and does something, he pushed the button
9 again, and it starts, I don't know what
10 to make of it.
11 But, we also have a different
12 condition here. We have something where
13 it's not going into reverse.
14 Q. What's that indicative of?
15 A. I don't know. I don't know the problem
16 with it.
17 Q. Okay.
18 A. I have no idea what the problem is, but
19 they indicated it could not go in
20 reverse, or when they tried going in
21 reverse it would stall on them.
22 Q. Okay.
23 A. And I'd like to believe that these
24 fellows could evaluate and investigate

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1 that sort of problem and find out what it
2 was. It was never done.
3 Q. Could you define for me generally, just
4 so we get a starting off point, what a
5 short circuit is? I think you used the
6 term, right?
7 A. Yeah, where something, a live wire goes
8 to ground.
9 Q. And what happens?
10 A. You get a spark, or you run down your
11 battery, or the thing just doesn't work
12 because you have an open circuit.
13 Q. Okay. And just to go back to your
14 analogy with the clicker from the TV, if
15 you had a short circuit, you wouldn't be
16 able to --
17 A. Oh, no, nothing would happen.
18 Q. It'd be fried; you'd be out of luck.
19 A. Well, I don't know whether you'd be out
20 of luck or fried, but your batteries
21 might run down if you have a short
22 circuit.
23 Q. So if the vessel -- if the motor, rather
24 -- stalled out because of a short

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1 circuit, you wouldn't be able to get it
2 going five minutes later, would you?
3 A. Unless you pulled the wire away from
4 where it shorted.
5 Q. Save that, you wouldn't be able to get it
6 going, right?
7 A. No, it should not. If it shorts, it's
8 going to stay that way.
9 Q. So, not to beat this over the head, you
10 don't know one way or the other whether
11 there was an electronic problem that
12 caused the skiff to stall?
13 A. Electric or electronic, no.
14 Q. And I've heard people say, and I think
15 maybe Mr. Ramsey said it, but I'm not
16 positive so I won't -- that he thought
17 the engine needed air?
18 A. No, I think he said it needed fuel. He
19 squeezed the bulb.
20 Q. Thanks. Okay, I didn't --
21 A. And squeezing the bulb would force
22 gasoline into the engine.
23 Q. And an engine will stall, and --
24 A. If you don't get any fuel to it. You can

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1 run out of gasoline in your car and it
2 stalls.
3 Q. Or you could have a problem with the fuel
4 line and it would stall?
5 A. Fuel pump, yes.
6 Q. My idea of equipment is a fork, okay?
7 That's my idea of machinery that I use.
8 Obviously, this sounds obvious, but if
9 the engine isn't getting fuel, it's going
10 to stall out?
11 A. Correct.
12 Q. And that's if you don't put fuel in it?
13 A. Correct.
14 Q. If the fuel is somehow blocked from
15 getting to the engine?
16 A. Correct. You have a fuel filter. A fuel
17 filter -- even an automobile has a fuel
18 filter. Or, generally on a diesel
19 engine, if the fuel filters are not
20 changed, the engine will stop.
21 If you get a clog in the line,
22 the engine will stop. You run out of
23 fuel, engines will stop. There are lots
24 of reasons engines will stop. However,

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1 this one was doing it on a continual
2 basis. We're not talking about just this
3 one time. It was doing that days before,
4 according to Mr. King.
5 Q. Yeah, Mr. King's testimony was you kind
6 of had to gun it or something. Didn't he
7 say that?
8 A. He indicated in order to change into
9 reverse, you had to make certain that you
10 kept the engine up to speed, as I
11 remember feeling. You say, "gun it."
12 All of this is indicative of an engine
13 that's not in good repair. Something's
14 wrong with it. It should have been taken
15 out of service and repaired.
16 Q. Okay. I just want to focus on this a
17 little more then. If the idea of fuel
18 needs to get to the engine to keep it
19 running, that's separate from the
20 electrical.
21 A. Absolutely.
22 Q. They're two different things.
23 A. Surely.
24 Q. So, if you've got a -- I think when I was